

Dismissal without prejudice at the insistence of the plaintiff pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure is committed to the sound discretion of this court and, absent some plain legal prejudice to the defendants, denial of the dismissal constitutes an abuse of this court's discretion. *McCants v. Ford Motor Company, Inc.*, 781

F.2d 855 (11th Cir. 1986). Simple litigation costs, inconvenience to the defendants, and/or the prospect of a second or subsequent lawsuit do not constitute clear legal prejudice. *Id.*; see also *Durham v. Florida East Coast Railway Company*, 385 F.2d 366 (5th Cir. 1967). After review of the pleadings filed by the parties, the court finds that the plaintiff's claims against Jefferson Dunn, Karla Jones and Eric Evans are due to be dismissed without prejudice on the motion of the plaintiff.

III. CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. The plaintiff's motion to dismiss be GRANTED.
2. The plaintiff's claims against Jefferson Dunn, Karla Jones and Eric Evans be DISMISSED without prejudice.
3. Jefferson Dunn, Karla Jones and Eric Evans be DISMISSED as parties to this cause of action.
4. This case be referred back to the undersigned Magistrate Judge for further appropriate proceedings with respect to the plaintiff's claims against defendant James Nolin.

On or before **August 6, 2019** the parties may file objections to the Recommendation. The parties must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made; frivolous, conclusive, or general objections will not be considered.

Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the plaintiff to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or

manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1. *See Stein v. Lanning Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

Done, on this the 22nd day of July, 2019.

/s/ Susan Russ Walker
Susan Russ Walker
United States Magistrate Judge